

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

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<p>PACKAGE CONCEPTS &amp; MATERIALS, INC.,</p> <p>Plaintiff,</p> <p>vs.</p> <p>JIF-PAK.,</p> <p>Defendant.</p>	<p>Case No. <b>6 - 0 5 - 1 1 8 4 - R B H</b></p> <p><b>COMPLAINT</b></p> <p>Jury Trial Requested</p>
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**COMPLAINT**

**Parties**

1. Plaintiff, PACKAGE CONCEPTS & MATERIALS (hereinafter "Plaintiff" or "PCM"), is a corporation organized under the laws of the State of South Carolina, and maintains its principal place of business at 1023 Thousand Oaks Blvd., Greenville, South Carolina 29607.
2. Defendant, JIF-PAK, is upon information and belief a corporation organized under the laws of the State of California, and maintains its principal place of business at 1451 Engineer Street, Vista, California 92083.

**Jurisdiction and Venue**

3. This is an action for declaratory judgment of invalidity and non-infringement of U.S. Patent No. 5,413,148 (the "148 patent). Jurisdiction of this Court arises under the Declaratory Judgment Act, Title 28, United States Code Sections 2201-2202, and under the laws of the United States concerning actions related to patents, Title 28, United States Code, Sections 1331 and 1338(a).

4. This court has personal jurisdiction over the Defendant under the provisions of South Carolina Code §§ 36-2-802, 36-2-803 and 36-2-805.

5. Venue lies in this Judicial District under Title 28, United States Code, Section 1391(b)-(c) on the grounds that a substantial part of the events or omissions giving rise to the claim occurred in this District.

**COUNT ONE**  
**(Declaratory Judgment – Noninfringement - U.S. Patent No. 5,413,148)**

6. On May 9, 1995, U.S. Patent No. 5,413,148 issued for a “Casing structure for encasing meat products” (Attachment A).

7. Plaintiff has made, offered for sale and/or sold certain stockinette devices in the United States since the issuance of the ‘148 patent.

8. Defendant has made written assertions that Plaintiff’s customer, Specialty Foods Group, Inc., is infringing the ‘148 patent because Specialty Foods Group is using an infringing product manufactured by Plaintiff. Based on Defendant’s assertions, Plaintiff has a reasonable apprehension of being sued for infringement of the ‘148 patent. Accordingly, there is a present and continuing justiciable controversy between Plaintiff and Defendant as to Defendant’s right to threaten or maintain suit for infringement of the ‘148 patent, and as to the validity and scope thereof, and as to whether any of Plaintiff’s products infringe any valid claim thereof.

9. No valid claim of the ‘148 patent is infringed by any of Plaintiff’s products.

**COUNT TWO**  
**(Tortious Interference with Contract)**

10. Plaintiff incorporates by reference paragraphs 1-9 of this Complaint as if fully set forth herein.

11. Plaintiff has contracts with Specialty Foods Group, who in turn has contracts with customers for products incorporating Plaintiff's stockinette devices.
12. Defendant has knowledge of the aforementioned contracts.
13. Upon information and belief, Defendant is notifying Plaintiff's customers that Plaintiff is infringing upon Defendant's patent. Upon information and belief, this has directly caused breaches of contract. Upon information and belief, Defendant, by its actions, is intentionally procuring the aforementioned breaches of contract.
14. Defendant has no justification for its intentional interference with contract.
15. Plaintiff has been damaged as a result of Defendant's intentional acts.

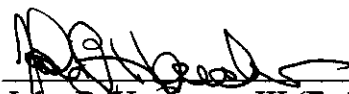
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays:

A. For entry of judgment that United States Patent No. 5,413,148 is invalid; that the manufacture, use, sale, offer for sale and/or importation of Plaintiff's stockinette devices do not infringe; and have not at any time infringed, the '148 patent; and that Defendant is without any right or authority to threaten or to maintain suit against Plaintiff or its customers for alleged infringement of the '148 patent.

B. For entry of an injunction enjoining Defendant, its agents, employees, assignees and attorneys, and those persons in active concert or participation with Defendant, from initiating infringement litigation and from threatening Plaintiff, any of its related companies, any of its prospective or present customers, dealers, agents, employees, vendors, suppliers, or owners or users of Plaintiff's stockinette devices with infringement litigation, and from charging any of them with verbally or in writing with infringement of the '148 patent because of the manufacture, use, offer for sale, sale, or importation of Plaintiff's stockinette devices.

- C. For entry of judgment for Plaintiff on the count of Tortious Interference with Contract.
- D. For entry of judgment for costs and reasonable attorneys' fees incurred by Plaintiff
- E. Grant Plaintiff such other and further relief as is just and proper.



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April 20, 2005  
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